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11 CORPORATION

12 **UNITED STATES DISTRICT COURT**

13 **CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**

14 BECKY CARPIO,

15 Plaintiff,

16 vs.

17 TARGET CORPORATION, and DOES
18 1 through 25, inclusive,

19 Defendants.

CASE NO.

**NOTICE OF REMOVAL OF
ACTION UNDER 28 U.S.C. §
1441(b) DIVERSITY**

State Action Filed: 07/20/2023

20
21 PLEASE TAKE NOTICE THAT pursuant to 28 U.S.C. sections 1332, 1441,
22 and 1446, Defendant TARGET CORPORATION (“Defendant” or “TARGET”)
23 hereby removes this action from the Superior Court of the State of California for the
24 County of Los Angeles to the United States District Court for the Central District of
25 California, Western Division.

26 1. On July 20, 2023, Plaintiff BECKY CARPIO (“Plaintiff”) filed an
27 action in the Superior Court of the State of California, Los Angeles, Case No.
28 23SMCV03268, entitled BECKY CARPIO v. TARGET CORPORATION, ET

1 AL. (the “State Court Action”).

2 2. Service of the Summons and Complaint upon TARGET was made by
3 personal service on July 24, 2023. True and correct copies of the Summons, Civil
4 Case Cover Sheet and Addendum, Complaint, Notice of Case Assignment, Notice
5 of Case Management Conference, General Orders, Alternative Dispute Resolution
6 Information Package and Stipulations served on TARGET are attached hereto as
7 **Exhibit A**. A true and correct copy of the Proof of Service of Service of Summons
8 is attached hereto as **Exhibit B**.

9 3. The Complaint alleges claims for General Negligence and Premises
10 Liability arising out of a slip and fall incident that occurred in one of TARGET’s
11 stores on or about August 7, 2021. Plaintiff prays for compensatory damages.

12 4. On August 18, 2023, TARGET filed its Answer to the Complaint in
13 the State Court Action (“Answer”). A true and correct copy of TARGET’s Answer
14 is attached hereto as **Exhibit C**.

15 **BASIS FOR REMOVAL**

16 **Complete Diversity of Citizenship Exists Between Plaintiff and Defendant**

17 5. Complete diversity of citizenship exists in that Plaintiff is a citizen of
18 California. TARGET, the only defendant named in the Complaint, is, and was at
19 the time this action was commenced, a corporation incorporated in the State of
20 Minnesota with its principal place of business in that State, and is therefore a
21 citizen of Minnesota. There is now, and there was at the time of the commencement
22 of this action, complete diversity between Plaintiff and Defendant.

23 6. TARGET is a corporate citizen of Minnesota. If a party is a
24 corporation, it is a citizen of both its state of incorporation and the state where it has
25 its principal place of business. 28 U.S.C. §1332(c)(1). At all relevant times herein,
26 TARGET has been incorporated in Minnesota and has maintained control from its
27 headquarters in Minneapolis, Minnesota.

28 7. In the U.S. Supreme Court case, *Hertz Corp. v. Friend*, 559 U.S. 77,

1 130 S. Ct. 1181 (2010), the Supreme Court held that a corporation’s “principal
 2 place of business” for purposes of determining federal diversity jurisdiction is its
 3 “nerve center” -- the place where the corporations’ high-level officers direct,
 4 control and coordinate the corporation’s activities. This is usually the corporate
 5 headquarters. Applying the “nerve center test” to this case, TARGET’s principal
 6 place of business is Minneapolis, Minnesota. TARGET does not conduct
 7 “substantially all” of its business in any single state, nor does TARGET’s business
 8 in any single state “substantially predominate” over any other. TARGET is a
 9 quintessential multistate corporation, with operations in each of the 50 states, all of
 10 which are directed, controlled and coordinated by officers in Minneapolis,
 11 Minnesota, without regard to locale, in furtherance of the corporate objective.

12 8. Other courts applying the “nerve center test” with respect to TARGET
 13 have similarly reached this conclusion. *See, e.g., Maldonado v. Target Corp., et al.*,
 14 2015 U.S. Dist. LEXIS 90011, at *1-2 (C. D. Cal.) (holding “Target has established
 15 that Minnesota is its principal place of business under the ‘nerve center’ test” and
 16 that complete diversity existed); *Gonzalez v. Target Corp.*, 2013 U.S. Dist. LEXIS
 17 145769, at *4-6 (E. D. Cal.) (finding declaratory evidence averring that TARGET’s
 18 retail stores and distribution centers were directed from its headquarters in
 19 Minneapolis, Minnesota, which houses Target’s administrative and financial offices
 20 and bulk of corporate records, showed Target was a citizen of Minnesota for
 21 diversity purposes); *see also, Lopez v. Target Corp.*, 2011 U.S. Dist. LEXIS
 22 117881 *4-5.

23 9. DOES 1 to 25 are named and sued fictitiously and their citizenship is
 24 disregarded as a matter of law for purposes of removal on grounds of diversity
 25 jurisdiction. 28 U.S.C. §1441(b)(1).

26 10. As set forth above, the complete diversity requirements are satisfied.
 27 *See*, 28 U.S.C. §1332(a); *Hertz, supra*, 559 U.S. at 80-81.

The Amount in Controversy Exceeds \$75,000.00

11. On or about October 28, 2022, Plaintiff's counsel emailed copies of medical bills to Target Corporation's general liability policy administrator, Sedgwick Claims Management Services, in the amount of \$123,083.37 for treatment of Plaintiff's injuries allegedly caused by the incident:

a. Providence Health & Services - St. John's Health Center **\$102,941.79.**

b. Maria L. Davis, M.D. - Cedars Sinai **\$20,141.58.**

TOTAL: \$123,083.37.

12. Plaintiff's alleged damages therefore exceed \$75,000.00, exclusive of interest and costs. In her Complaint, Plaintiff claims she was injured at Defendant's store after she purportedly slipped and fell on a dangerous condition. Under 28 U.S. Code § 1446(b)(3) "Except as provided in subsection (c), if the case stated by the initial pleading is not removable, a notice of removal may be filed within thirty days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable." *Roth v. CHA Hollywood Med. Ctr., L.P.*, 720 F.3d 1121, 1124 (9th Cir. 2013). "[T]he definition of 'other paper' is broad and may include any formal or informal communication received by a defendant". *Wilson v. Target Corp.*, 2010 WL 3632794, at *2 (S.D. Fla. Sept. 14, 2010). Therefore, by way of the above-mentioned medical billings, the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs. Thus, the threshold amount in controversy under 28 U.S.C. section 1332(a) is satisfied for purposes of diversity jurisdiction.

13. This Court has original jurisdiction of this civil action pursuant to 28 U.S.C. § 1332(a) because complete diversity of citizenship exists between Plaintiff and Defendant and the amount in controversy to be determined exceeds \$75,000. In addition, this is an action which may be removed pursuant to 28 U.S.C. § 1441(a).

Removal is Timely

14. This removal is timely in that 28 U.S.C. section 1441(b)(3) permits a defendant to file a notice of removal within thirty (30) days after defendant receives, “through service or otherwise, a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable.” Defendant was served with Plaintiff’s Complaint on or about July 24, 2023.

15. No further proceedings have occurred in the matter now pending before in the State Court Action. There is a Case Management Conference scheduled for January 12, 2024, at 8:30a.m.

16. TARGET will promptly file a removal notice, together with a copy of the instant Notice of Removal, with the Clerk of the Superior Court of the State of California, County of Los Angeles, and will serve written notice on counsel of record for Plaintiff.

WHEREFORE, Target hereby gives notice that the referenced action is removed in its entirety from the Superior Court for the State of California, County of Los Angeles, to the United States District Court for the Central District of California, Western Division, pursuant to 28 U.S.C. §§ 1332, 1441(a)-(b), and 1446.

DATED: August 22, 2023

**QUINTAIROS, PRIETO, WOOD &
BOYER, P.A.**

By: /s/ David G. Halm

DAVID G. HALM, ESQ.

Attorney for Defendant, TARGET
CORPORATION

PROOF OF SERVICE

I am a citizen of the United States. My business address is 500 North Brand Blvd., Suite 1650, Glendale, California 91203. I am employed in the County of Los Angeles where this service occurs. I am over the age of 18 years, and not a party to the within cause.

On the date set forth below, according to ordinary business practice, I served the foregoing document entitled:

**NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. § 1441(b)
DIVERSITY**

☒ (BY CM/ECF) I hereby certify that on this date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the Electronic Mail notice list, and I hereby certify that I have mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants (if any) indicated on the Manual Notice list.

☐ (BY E-MAIL) On this date, I personally transmitted the foregoing document(s) via electronic mail to the e-mail address(es) of the person(s) on the attached service list.

☐ (BY MAIL) I am readily familiar with my employer's business practice for collection and processing of correspondence for mailing with the U.S. Postal Service, and that practice is that correspondence is deposited with the U.S. Postal Service the same day as the day of collection in the ordinary course of business. On this date, I placed the document(s) in envelopes addressed to the person(s) on the attached service list and sealed and placed the envelopes for collection and mailing following ordinary business practices.

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Attorneys for Plaintiff
BECKY CARPIO

☒ (Federal) I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on August 22, 2023, at Palmdale, California.

/s/Liseth Gonzalez
Liseth Gonzalez